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9 BackGrid USA, Inc.

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 BACKGRID USA, INC., a California
13 corporation,

14 Plaintiff,

15 v.

16 TAYLOR MAGLIN, an individual
17 doing business as DAILY LOUD; and
18 DOES 1-10, inclusive,

19 Defendants.

Case No.: 2:24-cv-2857

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- 1) **COMPLAINT FOR COPYRIGHT
INFRINGEMENT(17 U.S.C. § 501)**
2) **DECLARATORY RELIEF (17
U.S.C. § 512)**

DEMAND FOR JURY TRIAL

1 Plaintiff BackGrid USA, Inc., complains against Defendant Taylor Maglin
2 and Does 1-10 (collectively, “Defendants”) as follows:

3 **JURISDICTION AND VENUE**

4 1. This is a civil action against Defendants for acts of copyright
5 infringement under the Copyright Act, 17 U.S.C. §§ 101 *et seq.* This Court has
6 subject matter jurisdiction under 28 U.S.C. § 1331, 17 U.S.C. § 501(a), and 28
7 U.S.C. § 1338(a) and (b).

8 2. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c) and
9 28 U.S.C. § 1400(a) in that the claim arises in this judicial district, and the injury
10 suffered by Plaintiff took place in this judicial district. Defendants are subject to the
11 general and specific personal jurisdiction of this Court because of their contacts with
12 the State of California. Among other things, Defendants infringed BackGrid’s
13 photographs on Twitter, a platform whose principal place of business is in
14 California. When BackGrid issued a DMCA notification to Twitter for Defendants’
15 infringement, Defendants submitted a DMCA counter notification to Twitter, which
16 claimed, under penalty of perjury, that the use was a fair use, which is clearly not
17 supported by law or by the facts, and therefore Defendants could not have a good
18 faith belief that the use was permitted. Moreover, on information and belief, many of
19 the Defendants’ 3.1 million Twitter followers are from Southern California. Finally,
20 Defendants provide business and promotional digital marketing services and, on
21 information and belief, provide those services to Southern California residents
22 through their Twitter account, website, and other social media accounts.

23 **PARTIES**

24 3. Plaintiff BackGrid, USA Inc. (“BackGrid”) is a California corporation
25 existing under the laws of California, with its principal place of business located in
26 Los Angeles, California.

27 4. On information and belief, Defendant Taylor Maglin (“Maglin” or
28 “Daily Loud”) is an individual doing business as Daily Loud. The Daily Loud

1 Twitter account represents that it is based in Miami, Florida. Maglin's
2 counternotification to Twitter listed a Pittsburg, Pennsylvania address. Neither
3 Florida nor Pennsylvania has any apparent record that "Daily Loud" is a formally
4 organized entity.

5 5. The true names or capacities, whether individual, corporate, or
6 otherwise, of the Defendants named herein as Does 1 through 10, inclusive, are
7 unknown to Plaintiff, who therefore sues said Defendants by such fictitious names.
8 Plaintiff will ask leave of Court to amend this Complaint and insert the true names
9 and capacities of said Defendants when the same have been ascertained.

10 **FACTS COMMON TO ALL COUNTS**

11 *BackGrid and the Photographs that Frame This Dispute*

12 6. BackGrid owns and operates one of Hollywood's largest celebrity-
13 photograph agencies that has earned a reputation for regularly breaking scoops on
14 sought-after celebrity news. It owns the intellectual property rights, including the
15 copyrights, to photographs that have been licensed to numerous top-tier outlets, such
16 as TMZ, Entertainment Tonight, New York Post, People Magazine, Huffington Post,
17 the Daily Mail, as well as many television stations, newspapers and other prominent
18 media outlets throughout the world. Each license has been granted for valuable
19 consideration, up to hundreds of thousands of dollars.

20 7. Among many other in-demand works, BackGrid owns coveted
21 photographs of Taylor Swift and Travis Kelce, Kanye West, Bianca Censori and
22 North West, Brittany Renner, Tyga and Avril Lavigne, John Cena, Lori Harvey,
23 Drake, Rihanna and ASAP Rocky (the "Celebrity Photographs") among many
24 others. Each of the Celebrity Photographs that are at issue in this action are timely
25 registered. BackGrid filed for copyright registration of the Celebrity Photographs
26 within 90 days of their first publication with the United States Copyright Office. The
27 copyright registrations are attached hereto as Exhibit A.

Defendants and Their Willfully Infringing Activity

8. Defendant Maglin provides digital marketing services to artists and businesses through his brand “Daily Loud.” On information and belief, Maglin operates and controls dailyloud.com as well as “Daily Loud” social media accounts, such as twitter.com/dailyloud (“Twitter Account”). Maglin caused each of the Celebrity Photographs to be displayed, reproduced, and distributed on the Twitter Account, which currently has 3.1 million followers. The account is not private, so it does not reflect all viewers who viewed the content.

9. Defendants reproduced, distributed, displayed, and created unauthorized derivative works of the Celebrity Photographs on the Twitter Account without consent or license, as shown in Exhibit B, which is incorporated herein by reference.

10. Defendants violated federal law by willfully infringing BackGrid’s copyrights to at least 14 Celebrity Photographs on, at least, the Twitter Account.

11. BackGrid sent a DMCA takedown notification for at least one of the infringing photos. In response, Defendants issued a counter-notification to Twitter, claiming that they were legally permitted to post the photographs when they were not.

12. Defendants are sophisticated digital marketers who knew they did not have the right to post the Celebrity Photographs. Among other things, Defendants continued to infringe many of BackGrid’s photos after BackGrid issued the DMCA notification and requested a good faith response to resolve it. Defendants responded by stating, *inter alia*, “Looking forward to seeing how this goes,” while refusing to engage in meaningful discussion. Moreover, Defendants make efforts to inform others of their copyright ownership by including a notice of copyright on their own intellectual property. Thus, Defendants have a high level of sophistication in copyright law and the structures thereof.

1 13. Defendants induced, caused, or materially contributed to the
2 reproduction, distribution, and public display of the Celebrity Photographs and
3 derivatives thereof, all while knowing or having reason to know of the infringement
4 on the Twitter Account was without permission, consent, or license.

5 14. On information and belief, Defendant operates and controls the Twitter
6 Account at all times relevant to this dispute and financially benefits from the
7 infringement of the Celebrity Photographs displayed thereto. On information and
8 belief, Defendants have driven significant traffic to their Twitter Account, and
9 therefore increased its revenues, in large part due to the presence of the sought-after
10 and searched-for Celebrity Photographs that frame this dispute. All of this traffic
11 translates into a substantial ill-gotten commercial advantage and brand awareness as
12 a direct consequence of their infringing actions. Each of the infringements was
13 discovered within three years of the filing of this lawsuit.

14 15. BackGrid attempted to resolve this dispute prior to filing this above
15 captioned action. Defendants refused to engage in any discussion, and many of the
16 Celebrity Photos are still live.

17 **FIRST CLAIM FOR RELIEF**

18 **(Copyright Infringement, 17 U.S.C. § 501)**

19 16. BackGrid incorporates by reference the allegations in paragraphs 1
20 through 15 above.

21 17. BackGrid is the owner of all rights, title, and interest in the copyrights
22 of the Celebrity Photographs that frame this dispute, which substantially consist of
23 wholly original material and which are copyrightable subject matter under the laws
24 of the United States.

25 18. BackGrid filed for copyright registration of the Celebrity Photographs
26 within 90 days of their first publication with the United States Copyright Office.

27 19. Defendants have directly, vicariously, contributorily, and/or by
28 inducement willfully infringed BackGrid's copyrights by reproducing, displaying,

1 distributing, and utilizing the Celebrity Photographs for purposes of trade in
2 violation of 17 U.S.C. § 501 *et seq.*

3 20. All of the Defendants' acts are and were performed without the
4 permission, license, or consent of BackGrid.

5 21. BackGrid has identified at least 14 instances of infringement by way of
6 the unlawful reproduction and display of BackGrid's photographs.

7 22. As a result of the acts of Defendants alleged herein, BackGrid has
8 suffered substantial economic damage.

9 23. Defendants have willfully infringed and, unless enjoined, will continue
10 to infringe BackGrid's copyrights by knowingly reproducing, displaying,
11 distributing, and utilizing its photographs by, among other things, virtue of
12 Defendants' encouragement of the infringement and financial benefits they receive
13 from BackGrid's copyrights.

14 24. The wrongful acts of Defendants have caused, and are causing, injury to
15 BackGrid, which cannot be accurately computed, and unless this Court restrains
16 Defendants from further commission of said acts, BackGrid will suffer irreparable
17 injury, for all of which it is without an adequate remedy at law. Accordingly,
18 BackGrid seeks a declaration that Defendants are infringing BackGrid's copyrights
19 and an order under 17 U.S.C. § 502 enjoining Defendants from any further
20 infringement.

21 25. The above-documented infringements alone would entitle BackGrid to
22 a potential award of up to \$150,000 per work in statutory damages for each of the 14
23 infringed photographs, in addition to its attorney's fees.

24 **SECOND CLAIM FOR RELIEF**

25 **(Declaratory Judgment, 17 U.S.C. 512(g))**

26 26. BackGrid incorporates here by reference the allegations in paragraphs 1
27 through 27 above.

27. An actual controversy exists as to whether Defendants is entitled to post BackGrid's photographs without BackGrid's consent on its Twitter Account.

28. BackGrid owns the Celebrity Photographs that were used by the Twitter Account without consent or license. Defendants infringed BackGrid's photographs to drive traffic to its account and derive ill-gotten revenues.

29. BackGrid herein alleges that Defendants were not entitled to infringe its photograph. BackGrid served on Twitter a compliant DMCA notice for the work located at <https://t.co/d3hlryx9Ww>. Defendants served on Twitter a counternotification claiming it was entitled to post the image, when they were not. As such, BackGrid is entitled to an order enjoining Defendants from infringing its photographs on Twitter. 17 U.S.C. § 512(g).

30. Defendants' violation of 17 U.S.C. § 501, et al. has caused, and, unless restrained by this Court, will continue to cause, irreparable injury to Plaintiff not fully compensable in monetary damages. Plaintiff is entitled to a preliminary and permanent injunction enjoining Defendants from further such violations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. That the Defendants, and their officers, agents, servants, employees, and representatives, and all persons in active concert or participation with them, be permanently enjoined from copying, reproducing, displaying, promoting, advertising, distributing, or selling, or any other form of dealing or transaction in, any and all Photographs of BackGrid;

2. That an accounting be made for all profits, income, receipts, or other benefit derived by Defendants from the unlawful reproduction, copying, display, promotion, distribution, or sale of products and services, or other media, either now known or hereafter devised, that improperly or unlawfully infringes upon Plaintiff's copyrights pursuant to 17 U.S.C. § 504 (a)(1) & (b);

1 3. For actual damages and disgorgement of all profits derived by
2 Defendants from their acts of copyright infringement, removal, and for all damages
3 suffered by it by reasons of Defendant's acts, under 17 U.S.C. § 504 (a)(1) & (b);

4 5. For statutory damages for copyright infringement, including willful
5 infringement, in accordance with 17 U.S.C. § 504(a)(2) & (c);

6 6. For reasonable attorneys' fees incurred herein pursuant to 17 U.S.C. §
7 505;

8 7. For costs and interest pursuant to 17 U.S.C. § 504 (a)(1) & (b), 17
9 U.S.C. § 505;

10 8. A declaration that Defendants have infringed BackGrid's photographs
11 and that Defendants are restrained from posting further infringement on Twitter; and

12 9. For any such other and further relief as the Court may deem just and
13 appropriate.

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15 Dated: April 8, 2024

ONE LLP

16
17 By: /s/ Joanna Ardalan
18 Joanna Ardalan

19 *Attorneys for Plaintiff,*
20 BackGrid USA, Inc.
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DEMAND FOR JURY TRIAL

Plaintiff BackGrid USA, Inc., hereby demands trial by jury of all issues so triable under the law.

Dated: April 8, 2024

ONE LLP

By: /s/ Joanna Ardalan
Joanna Ardalan

Attorneys for Plaintiff,
BackGrid USA, Inc.